

***United States Court of Appeals
for the Second Circuit***



APPENDIX

74-2576

CASE NO. 74-2576

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellant,

-against-

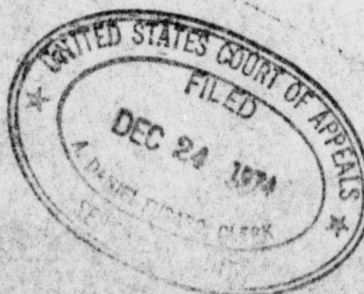
ANTHONY ASTONE,

Defendant-Appellant.

Appeal from the Sentence of the Hon. Edmund
L. Palmieri, Judge of the United States Dis-
trict Court, Southern District of New York

APPENDIX

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UNITED STATES v. ANTHONY ASTONE, 74 CR. 375

I construe the attached papers to be a motion by the defendant, Anthony Astone, to postpone the date for his surrender until such time as he can perfect an appeal for the purpose of determining whether or not his sentence was excessive. I know of no basis upon which an appeal can be taken under these circumstances and I know of no valid reason why the date of surrender should be postponed. The defendant pleaded guilty on October 1, 1974, and at that time was made fully aware of the statutory penalties, including imprisonment, to which he was exposed by his plea.* Because of the necessity for the filing of a presentence report, and my own commitments, sentence was not actually imposed until November 27, 1974, thereby affording the defendant a period of almost two months within which to prepare to surrender and make necessary arrangements to serve a possible jail sentence. The sentence actually imposed, four months' imprisonment and a committed fine of \$2,500, was in my opinion a fair and considerate sentence and I cannot discern any reason why it should be considered to be excessive. In any event, and in order to afford the defendant an opportunity to make an application for a stay of the date of surrender and for bail pending such period (Rule 9 of the Federal Rules of Appellate Procedure, 18 U.S.C. § 3148), I am postponing the time of surrender from December 9, 1974, at 10:30 a.m. to December 10, 1974, at 12:00 noon.

I consider the defendant's proposed appeal to be frivolous. I know of no basis upon which he can appeal from a plea of guilt because of the alleged excessiveness of the sentence. Additionally, the defendant was at all times assisted by competent counsel and entered his plea after an appropriate inquiry into the factual basis therefor and upon a clear showing of his awareness of the constitutional rights which were waived by his plea of guilty. It is therefore my conclusion that no appropriate ground has been demonstrated for a delay of the time and date of surrender, and the short delay herein provided for is granted solely for purposes of convenience in permitting defendant's new counsel to make whatever application he may believe is appropriate before the Court of Appeals once a notice of appeal is filed. I am unable to make a record, despite the presence of Assistant United States Attorney John D. Gordan III, because the papers in the case have been delivered to me by a person who is not an attorney and therefore cannot speak for the defendant.

It is so ordered.

S

EDMUND L. PALMIERI
U. S. D. J.

Dated: New York, N. Y.
December 4, 1974

* 26 U.S.C. § 7201--Attempt to evade or defeat tax.

54
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

A-2

UNITED STATES OF AMERICA :

- v - :

ANTHONY ASTONE, :

Defendant. :

INDICTMENT

74 Cr.

375

COUNTS ONE THROUGH FOUR

The Grand Jury charges:

On or about the dates hereinafter set forth, ANTHONY ASTONE, President and responsible Corporate officer of Newburgh Moving & Storage, Inc., a corporation having it's principal place of business in the Southern District of New York, unlawfully, wilfully, and knowingly did attempt to evade and defeat a large part of the income taxes due and owing to the United States of America by the said corporation for its fiscal year ended as hereinafter set forth, by maintaining false, incorrect, and misleading books and records, by concealing sources of income, by preparing and causing to be prepared, and by filing and causing to be filed with the District Director of Internal Revenue at Albany, New York false and fraudulent corporate income tax returns wherein he alleged that the corporation had income as hereinafter set forth, for the said fiscal year and that the tax due thereon was as hereinafter set forth, whereas, as he then and there well knew, the taxable income of the corporation for the fiscal year was as hereinafter set forth, upon which taxable income the corporation owed to the United States of America a total tax as hereinafter set forth.

<u>Count</u>	<u>Date Return Filed</u>	<u>F/Y/E</u>	<u>Taxable Income Per Tax Return</u>	<u>Tax Per Return</u>	<u>Corrected Taxable Income</u>	<u>Corrected Tax Liability</u>	A-3
1	2/24/70	9/30/67	-0-	-0-	\$34,414.03	\$10,018.76	
2	2/24/70	9/30/68	(\$590.33)	-0-	\$19,169.76	\$4,511.04	
3	4/28/71	9/30/69	(\$2,454.41)	-0-	\$7,488.89	\$1,416.03	
4	9/9/71	9/30/70	\$20,637.42	\$4,540.23	\$53,882.54	\$20,331.80	

(Title 26, United States Code, Section 7201.)

COUNTS FIVE THROUGH EIGHT

The Grand Jury further charges:

During the calendar years hereinafter set forth and continuing up to and including the date of filing of the returns, hereinafter set forth, ANTHONY ASTONE, who during the said calendar year was married, and residing in the Southern District of New York, unlawfully, wilfully and knowingly did attempt to evade and defeat a large part of the income tax due and owing by himself and his wife to the United States of America for the said calendar year, by maintaining false, incorrect and misleading books and records, by concealing income and sources of income for his corporation Newburgh Moving and Storage, Inc., which was located in and doing business in the Southern District of New York, as set forth in Counts One through Four, by preparing and causing to be prepared and by filing and causing to be filed with the District Director, Internal Revenue Service Center, North Atlantic Region at Andover, Massachusetts, and elsewhere, false and fraudulent joint income tax returns on behalf of himself and his wife, wherein it was stated that their taxable income for the said calendar year was the sum hereinafter set forth and that the amount of tax due and owing thereon was the sum hereinafter set forth, whereas, as he then and there well knew their approximate joint taxable income for the said calendar year was the sum

<u>Count</u>	<u>Calendar Year</u>	<u>Date Return Filed</u>	<u>Taxable Income Per Tax Return</u>	<u>Tax Per Return</u>	<u>Corrected Taxable Income</u>	<u>Corrected Tax Liability</u>
5	1967	Timely	(\$1,097.83)	-0-	\$26,002.50	\$6,380.90
6	1968	Timely	\$1,608.03	\$234.00	\$14,093.20	\$2,992.05
7	1969	4/26/71	\$2,566.05	\$398.57	\$10,270.23	\$2,067.40
8	1970	4/20/71	\$7,736.13	\$1,362.80	\$42,733.57	\$11,034.59

(Title 26, United States Code, Section 7201.)

Foreman

PAUL J. CURRAN
United States Attorney

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2 UNITED STATES OF AMERICA

3 -against-

74 Cr. 375

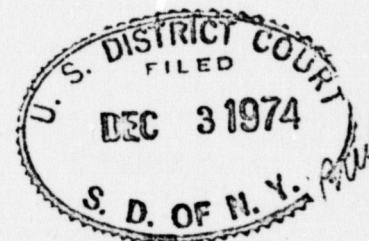
4 ANTHONY ASTONE

5 Before: Hon. Edmund L. Palmieri, D. J.

6 Date: October 1, 1974; 4:10 P.M.

7 For the government: Robert Gold, Esq.

8 For the defendant: Richard Mezan, Esq.



9

10 (Case called.)

11 MR. GOLD: My name is Robert Gold. I am an
12 assistant United States attorney. It is my understanding
13 Mr. Astone wishes to enter a plea of guilty to Count 4 at
14 this time.

15 THE COURT: Do you want to make an application?

16 MR. MEZAN: Yes. My name is Richard Mezan from
17 the law offices of Samuel Mezinsky.

18 Mr. Anthony Astone now wishes to withdraw his
19 previously entered plea of not guilty to Count 4 of the
20 indictment and will now plead guilty to Count 4.

21 THE COURT: Have you gone over with him the
22 form of acknowledgement of rights?

23 MR. MEZAN: Yes, your Honor.

24 THE COURT: Are you prepared to represent that
25 they have been adequately explained to him and that in

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2

2 your opinion he understands those rights and has willingly
3 waived them?

4 MR. MEZAN: Yes, your Honor.

5 THE COURT: Has he signed the acknowledgement
6 in your presence?

7 MR. MEZAN: Yes, your Honor.

8 THE COURT: And have you signed it?

9 MR. MEZAN: Yes, sir.

10 THE COURT: As an acknowledgement that you have
11 given him the appropriate advice as stated in the form?

12 MR. MEZAN: Yes, your Honor.

13 THE COURT: I have the form before me and I
14 direct that the clerk mark it as a court exhibit in these
15 proceedings.

16 (Court Exhibit 1 received in evidence.)

17 THE COURT: I will take the defendant's plea.

18 THE CLERK: Mr. Stone, will you listen as I
19 read the charge.

20 (The clerk read Count 4 in the indictment.)

21 THE CLERK: Mr. Astone, how do you plead to
22 this count?

23 THE DEFENDANT: I plead guilty.

24 BY THE COURT OF THE DEFENDANT:

25 Q Mr. Astone, I have to ask you certain questions

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to make certain that you understand the proceedings which have just taken place.

Before pleading guilty, did you confer with your attorney about this case and did you tell him everything that you knew concerning the charges?

A Yes, we discussed it.

Q Did you answer his questions fully and frankly?

A Yes, sir.

Q Did you hold back any information from him?

A No, sir.

Q Did you give him any false information?

A No, sir.

Q Did he advise you with respect to your constitutional rights with respect to your guilty plea?

A He did.

Q As set forth in this form, Court's Exhibit 1?

A He did, sir.

Q And did you sign this form as an acknowledgement of your understanding of those rights?

A Yes, sir.

Q Do you understand that having pleaded guilty the only function left to the Court is to impose whatever penalty may be proper under the law and the facts of the case and the penalty may be imprisonment in part and part

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2 of it may be a fine or both penalties may be imposed; do
3 you understand that?

4 A Yes.

5 THE COURT: Will the United States Attorney state
6 the maximum penalty applicable to the count to which the
7 defendant has pleaded guilty?

8 MR. GOLD: Five years imprisonment and/or \$10,000.

9 Q You understand that those maximum penalties might
10 be applied in your case?

11 A Yes, sir.

12 Q Will you tell me in your own words just what you
13 did which led to this charge and to your plea of guilty to
14 Count 4?

15 I ask you this because under the present procedures
16 it is no longer proper for us to hear a man say guilty. He
17 has to say a little more than that to give us the factual
18 basis for the acceptance of a plea.

19 A I signed a tax return that was fraudulent and mis-
20 represented my net income, my gross income. Excuse me.
21 Gross income of the corporation.

22 Q You knew when you signed this return that you
23 in fact owed a substantially larger amount of tax and that
24 in fact you were concealing your liability for that?

25 A Yes, your Honor, but I don't think the amount is

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right at this point.

Q This says that the tax, according to the income that you reported, was \$4,540 and that according to the corrected tax liability it was \$53,882. You dispute that \$53,000 figure, I take it?

A Yes.

Q But do you admit that the figure you did in fact owe was substantially greater, that is, at leave several thousand dollars greater than the \$4,000 and some that you did report?

A I do, sir.

Q Have you any suggestion as to what the correct amount in fact was?

A I really don't know at this time, sir.

Q But you admit that it was substantially greater and at least several thousand dollars greater?

A Yes, sir.

Q What schooling have you had?

A Two years of high school.

Q And what kind of business have you been conducting?

A Moving and storage business.

Q Did you actually work in that business apart from running the office?

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2 A Yes, sir, I worked most of the time.

3 Q What?

4 A I worked most of the time driving a truck.

5 Q Have you entered the plea of your own free will
6 after having discussed the case to your satisfaction with
7 your attorney?

8 A I have, sir.

9 Q Are you at the present time in any physical
10 pain or any kind of physical or mental disability?

11 A No, sir.

12 Q And you are quite certain that you understand
13 everything your attorney has advised you, everything that
14 is on this form and everything that I have said?

15 A Yes, sir.

16 Q Are there any questions you wish to ask your
17 attorney, Mr. Mezan, or me--

18 A No, sir.

19 Q --about the entering of the plea?

20 A No, sir.

21 THE COURT: Are there any questions counsel wish
22 to suggest to the court?23 MR. GOLD: No, sir. I say the plea in fact has
24 a basis in fact. I have nothing to add.

25 MR. MEZAN: I would like to make a motion that

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2 the other counts be dropped at the time of the sentencing.

3 THE COURT: I suggest you renew that motion on
4 the date of sentence.

5 I will direct that a presentence report be
6 prepared.

7 I also direct that the defendant file a sworn
8 net worth statement in accordance with the form provided
9 by the probation office and that the date of sentence be
10 fixed for November 21 at 4:00 p.m. in whatever courtroom
11 I may be assigned to at that time.

12 Is the defendant presently free on bail?

13 MR. GOLD: He is, your Honor.

14 THE COURT: Have you any objection to his con-
15 tinued release on bail until the date of sentence?

16 MR. GOLD: None whatever.

17 THE COURT: Very well. Bail will be continued
18 until the date of sentence. Thank you.

19 - - -

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2 UNITED STATES DISTRICT COURT

3 SOUTHERN DISTRICT OF NEW YORK

4 - - - - - x

5 UNITED STATES OF AMERICA

6 vs.

7 ANTHONY ASTONE,

8 Defendant.

9 - - - - - x

10
11 Before:

12 HON. EDMUND L. PALMIERI,

13 District Judge.

14 November 27, 1974
15 4:00 p.m.

16
17 APPEARANCES:

18 PAUL J. CURRAN, ESQ.

United States Attorney for the Southern
District of New York

19 BY: DICK WILE, ESQ.,
Assistant United States Attorney

20
21 RICHARD MEZAN, ESQ.

22 Attorney for Defendant.

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2 THE CLERK: United States of America versus
3 Anthony Astone.

4 Government ready?

5 MR. WILE: The Government is ready.

6 MR. MEZAN: Read.

7 THE COURT: Does Government counsel wish to
8 make a statement?

9 MR. WILE: No, your Honor.

10 THE COURT: Does defense counsel wish to make a
11 statement?

12 MR. MEZAN: Yes, your Honor.

13 May it please the Court, my name is Richard
14 Mezan. I, along with my father, Samuel Mezan, who is seated
15 at counsel table, represent Mr. Anthony Astone, who is now
16 before this Court for sentencing.

17 Health problems prevent my father from
18 addressing the Court, but I speak for both of us when I
19 speak in behalf of Mr. Astone.

20 Your Honor, Anthony Astone has pleaded guilty
21 to one count of evasion of income taxes. He fully
22 acknowledges his guilt. He has been hurt and humiliated by
23 this experience both from a personal point of view and with
24 regard to his family and his community.

25 He also regrets the mistakes he has made and is

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2 anxious, extremely anxious, to rectify them by making
3 restitution of all he owes to the Government. But there
4 are a few matters which I would just like to bring to the
5 Court's attention at this time.

6 First, as I stated, Mr. Astone was extremely
7 anxious to come before this Court today and to say to the
8 Court that he has fully paid back what he rightfully owes
9 but, unfortunately, the IRS, for administrative or for
10 whatever reasons, has refused to discuss with Mr. Astone or
11 his representatives the payment of taxes he owes until after
12 this proceeding is concluded.

13 We have asked the Assistant United States
14 Attorney for his aid, and he has kindly cooperated in
15 requesting the IRS to discuss with us the question of the
16 taxes owed, but even with the cooperation, the IRS in
17 Newburgh has steadfastly refused to discuss the matter
18 until this proceeding is concluded.

19 I can only state that Mr. Astone stands
20 sincerely ready to discuss and agree upon the amount of his
21 taxes owed and to pay them, regardless of the economic
22 consequences.

23 This brings up a further point that relates to
24 the amount of taxes due.

25 I am aware that this is largely irrelevant to

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the present proceeding, but I would only briefly like to bring to this Court's attention to show that this is not a massive or even a large evasion and the amount in the indictment is not the tip of an iceberg, as often might be implied from the figures used by the Internal Revenue Agent in his statement to the probation officer.

The fact is that Mr. Astone has pleaded guilty to one count of evasion, but disputes the amount of dollars in even that count. In fact, the total amount alleged to be due the Government by Mr. Astone is monumentally exaggerated and can be proven to be so.

The reason for this is quite simple. The Court is aware from the presentence report of Mr. Astone's background. He has been a very hard worker all of his life and this is probably one of the sources of his trouble.

While Mr. Astone was in the motel business, he worked at night loading and unloading trucks for the John Ivory Moving Company. He went into the moving and storage business on the encouragement of Ivory for himself and from that time, Anthony Astone literally worked day and night to make the business a success.

He did not sit behind a desk, but he loaded and unloaded the trucks and drove the trucks day and night in order to take three days to make deliveries where otherwise

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2 it might take five.

3 As a result, the books and records of his
4 company were a disaster. Little or no records were kept of
5 such business expenses as obvious as payroll expenses and
6 loading and unloading charges. This was during the period
7 when the company had to deal in cash because it had not yet
8 established its credit.

9 I could go on, but the point I would like to
10 make is that while he has pleaded guilty and is guilty of
11 the tax evasion, the amount of taxes due would be found to
12 be vastly overstated when Mr. Astone is finally permitted
13 to present his case to the IRS.

14 If the amounts mentioned by the agents were
15 even close to being accurate, his company would be making
16 twenty or thirty times more profit than the highest profit
17 moving company in the State of New York.

18 Your Honor, I would also like briefly to refer
19 to Anthony Astone's past record, which you have before you.

20 The offenses which appear there were committed
21 when he was very young, all stemming from the same
22 circumstances and the product of his running into bad
23 company at an early age.

24 Anthony Astone has paid dearly for these
25 offenses, both in terms of a personal family tragedy

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involving his father and the subsequent stigma and after-effects resulting from them.

I should note again that the problem of the warrant, the outstanding warrant in Boston mentioned in the presentence report arose out of acts in the same time period and the alleged parole violations were nothing more than an administrative foul up which has now been completely dismissed in Boston as noted in the letter from the Boston attorney which was submitted to the Court on Monday.

Finally, your Honor, I turn to Mr. Astone's character.

I honestly and sincerely believe that Anthony Astone is and has been a good citizen of his community and is a very decent man. There is absolutely no truth to the fact that he has been living anything which even vaguely resembles an extravagant life. Far from it.

He has worked unlimited hours in his business to provide a very modest living for his wife and his stepson, whom he has taken into his business and actually given him part of the business and works with him.

Mr. Astone is not only lived and respected by his family, perhaps even more indicative of his character, he is admired and respected in his community. Many of the letters which the Court has before it were completely

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unsolicited and these letters, which represent a cross spectrum of the community, show the work and effort Anthony Astone has contributed on his own to his community.

The letters are not only from business associates and family friends in Newburgh and in Florida, but also from organizations and community groups to whom Mr. Astone has given his services.

Numerous instances are noted where Mr. Astone made generous contributions to mental health programs and other charities through a community service organization to which he belongs, he has hired high school dropouts as part of a program to allow them to continue their education and he has assisted the local Police Department on several occasions.

His donations, I think, most significantly have not been simply money, but of his time, his labor. Most importantly, these letters are a testimonial to his character and his commitment to his sensitivity to others.

In sum, Anthony Astone fully admits his guilt for an evasion of taxes and truly seeks to make restitution. He is also guilty of what can only be called incredible naivete. Nothing can evidence this more than the fact that many of the income tax returns in question were filed after the Internal Revenue Agents were already investigating his

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2 taxes.

3 In addition, I should note that Mr. Astone,
4 during the investigation of this case, turned over all the
5 records to the Internal Revenue Service when asked and
6 cooperated with the investigation in every way.

7 He has made a serious mistake. He knows that
8 better than anyone. He is now struggling to start a new
9 business in Florida, the water purifying business, which he
10 himself designed the product and made the prototype, and if
11 given a chance, I am confident he can make a new and
12 successful start.

13 I can only ask the Court in passing sentence
14 today to show leniency to a man who truly deserved it and
15 who, I am convinced, if allowed to return to his community
16 will fully pay back to society all that he owes it and more.

17 I am completely confident that Mr. Astone can
18 be a credit to his society and his community.

19 Thank you.

20 THE COURT: Thank you, Mr. Mezan.

21 Anthony Astone, is there anything you wish to
22 say before the sentence of this Court is imposed?

23 THE DEFENDANT: No, sir, Judge.

24 THE COURT: While I agree with many of the things
25 that Mr. Mezan has said, there are, nevertheless, certain

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2 facts which I think I should underscore before imposing
3 sentence.

4 The count to which the defendant pleaded guilty
5 recites that the taxable income in accordance with the tax
6 return was approximately \$20,000 and the tax according to
7 the return was approximately \$4500, whereas the corrected
8 taxable income was \$53,000 and the corrected tax liability
9 was about five times that which was declared, namely,
10 \$20,331.80.

11 These income tax frauds and criminal income tax
12 violations are gross wrongs to the community because it
13 represents an attempt on the part of the individual to
14 divest himself of a clear responsibility which he owes to
15 the community and the excuse of sloppy bookkeeping and
16 being too busy with other things are excuses that cannot be
17 accepted in extenuation because Astone has shown by his
18 previous business activities and, indeed, some rather marked
19 success in the business community, that he is well aware of
20 the performance of maintaining proper books, but he cannot
21 maintain proper books and proper records for his own
22 benefit exclusively and disregarded the obligations that he
23 owes to the law abiding community and to the national
24 physical being.

25 He pleaded guilty and that is a fact that I have

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2 taken into consideration. He served honorably in the
3 Armed Forces of the United States and suffered a wound and
4 that is another fact which I feel that I must take into
5 consideration.

6 On the other hand, he does not come before this
7 Court with an entirely clean record. He has had brushes
8 with the criminal law before.

9 I note that although these convictions are, for
10 the most part, rather old convictions, and since he seems
11 to have taken a better direction in his life since he got
12 into the moving business, the fact nevertheless remains that
13 he has been on the borderline of good community conduct.

14 I am disregarding the Massachusetts matter with
15 respect to which I have received a letter from an attorney
16 explaining the status of that matter and I am not in any way
17 holding that against him as a pejorative fact.

18 The Probation Department has recommended a jail
19 term. I agree with their recommendation, although the term
20 I intend to impose is a lighter term than that which was
21 recommended.

22 I have in mind that if he had stood trial, I
23 would have imposed a sentence of a certain duration. Having
24 pleaded guilty, I think he is entitled to a lesser
25 sentence.

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2 I also think that his war record should weigh
3 in the balance in his favor.

4 Under all the circumstances, I concluded that
5 he should serve a four-month jail term and pay a committed
6 fine of \$2500.* That is the sentence.

7 If I had imposed a one-year term, which was
8 actually recommended, he might have been able to obtain
9 parole technically or theoretically after serving four
10 months, but I know from experience that these matters are
11 not resolved quickly and that very often the paperwork in
12 connection with obtaining parole will take as much as two,
13 three months and he might end up by serving anywhere from
14 five to eight months if he were given a year's sentence.

15 So rather than expose him to that problem of
16 seeking to get parole on a one-year sentence, I have
17 decided that the sentence should be a four months sentence
18 with a committed fine of \$2500.

19 MR. MEZAN: Your Honor, may I ask the Court if
20 the imposition of the sentence can be delayed? Mr. Astone
21 has to close down his business in Florida.

22 THE COURT: He has known for sometime -- of
23 course, I will grant you that courtesy, again, because of
24 the favorable aspects of his report. But you realize that
25 he should serve the sentence as quickly as possible and I

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2 would like to know how much time you feel he is entitled to.

3 He pleaded guilty more than a month ago. It
4 has taken all this time, I think some five or six weeks,
5 to get this report before me and to have the sentence
6 imposed.

7 I realize the last delay of one week was due to
8 my own commitments and not for any other reason.

9 How much time do you suggest?

10 MR. MEZAN: If he could have two weeks, he
11 could --

12 THE COURT: All right. I will specify that he
13 should surrender to serve his sentence two weeks from next
14 Monday, which would make it the 9th of December, at
15 11:00 a.m., to the marshal of this court.

16 MR. MEZAN: Thank you, your Honor.

17 MR. WILE: Your Honor, excuse me. I think it
18 is 10:30 in Room 506 surrenders are --

19 THE COURT: Is that the way you prefer to
20 have it?

21 MR. WILE: I think that is easier. I think
22 there is a regular procedure up in Room 506.

23 THE COURT: I thought a surrender directly to
24 the marshal was in order, but I will change what I have
25 just said to 10:30 to surrender to the Court and to the

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2 marshal on the morning of December 9th, where his name will
3 be called, presumably, and where he will surrender
4 officially.

5 What room is that in?

6 MR. WILE: 506.

7 THE COURT: In 506 of this building.

8 MR. MEZAN: I don't believe I did it before. I
9 move that the other counts be dismissed.

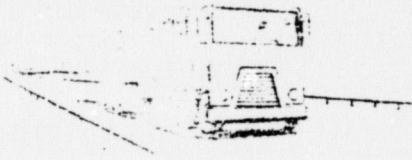
10 MR. WILE: The Government has no objection.

11 THE COURT: The motion is granted.

12 MR. WILE: It would be Counts 1 through 3 and
13 5 through 8 would be dismissed.

14 THE COURT: Yes.

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17 -000-
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JOHN F. IVORY STORAGE CO. INC.

GENERAL OFFICES: 8035 WOODWARD AVE. · DETROIT, MICHIGAN 48202
TEL. 313/873-5000

AGENTS IN PRINCIPAL CITIES

October 5, 1974

Honorable Edmund Palieri
U.S. District Court
Southern District
New York, New York

Honorable Edmund Palieri:

I have known Anthony Astone for approximately thirteen years. He began as an agent of our company, at that time in Taconic, New York, starting from scratch. He and a partner ran an over-the-highway van themselves, under a lease to this company. They performed the physical labor themselves and did it well. The partner couldn't cut it so Mr. Astone continued alone. He later moved from Taconic to Newburgh and continued to represent our company as an agent and still does.

Our dealings with him have been highly satisfactory throughout these years. He did not shy away from labor, either physical or mental. As his small business grew, he continued to put on coveralls and do the physical labor when the occasion demanded. Frankly, this impressed us. We have always felt that this type of individual in a service business creates satisfied customers.

While my contacts with him have been totally business, I have always admired him because of his willingness to accept his responsibilities. His dealings with us have been above reproach. I would unequivocally state that I have faith and trust in him.

Sincerely yours,

R.E. Garrett
President

REG:n1

October 21, 1974

Hon. Edmond Palmieri
U. S. District Court
Southern District
New York, New York

Honorable Edmond Palmieri:

My mother, Mrs. D. Essert and Mr. A. Astone were married in 1956.

In 1957 we moved to W. Taghkanic, where we were to live and operate a motel. I attended Hudson Public Schools thru high school. At this time, I was assisting my mother and step-father in operating the motel and doing various jobs to complete its construction.

In the year 1959 or 60, while I was still in High School, my father, upon completion of most of the work on the motel, went into the moving business. While still attending school, I assisted my father on moving jobs on week-ends, holidays and summer vacation.

In the years 1960, 61 and 62, my father, after working all week in the moving business, and I would go on the road at least 3 weekends a month and do 3-4 days work on a weekend. We worked many days as long as 16-20 hours and slept in the truck for a few hours rest.

In July 1962, in our continuous effort to do these weekend jobs, we turned over our tractor and trailer in Fredericksburg, Virginia. By the grace of God neither one of us was seriously hurt. We then realized, at this time that we had to stop this practice of over extending ourselves to make a living.

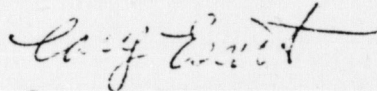
I was considering attending college, but I decided to work with my father and help make the business grow. In September 1962, instead of going to college, I stayed with the moving business, where I am still employed and now 1/3 owner of the corporation, which was given to me by my father.

Because of lack of funds my father and I would make all the long distance hauls. As the business increased it was then decided that I would handle the local work and my father the long distance work. When my father was out of town and I had a local job, I would hire 1 or 2 men to assist me. My father would employ help at delivery points. As time went by my dad gave up the road and went to work in the office, booking jobs and dispatching the crews for the day's work. Now, and for the last 2 years I've been doing this.

You can see ^{From} ~~from~~ this letter that our life was all work to provide a good living for our family.

I sincerely hope you will be understanding and lenient towards my father.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Cary Essert".

Cary Essert

October 23, 1974

To Whom It May Concern:

Let it be known that I can not express my gratitude for being asked to speak as a character witness for Anthony Astone.

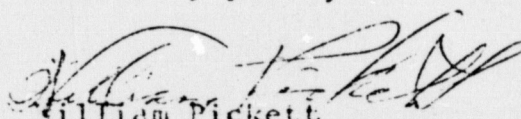
I have known Tony for quite a few years and have always known him to be of an unquestionable character and tremendous asset to the people of this community.

I know of many instances where people have turned to Tony for help and I know of no one who has been denied, regardless of race, creed or color.

I am offering my assistance to this man in any way possible, not for myself alone, but for the community as well. This community needs this man and to lose him would be a loss this community cannot afford.

I sincerely hope that this letter will be of some help to him.

Sincerely yours,


William Pickett
480 Liberty Street
Newburgh, New York 12550
Past President
NAACP

New York State Correction Officers Association, Inc.

P. O. Box 532
CHESTER, NEW YORK

October 12, 1974

Michael J. Walsh
Executive Director, President
Macedonia C. A.
Dutchess County Chapter

Arthur N. Parris
Executive Secretary

E. Riopelle
Executive Treasurer
C.O.A. Napanoch, N.Y.

Joseph DiCaterino
President
Orange County Chapter

Harry Brown, Jr.
President
Wallkill Prison Chapter
Ulster County Chapter

John J. Martin
President
E.C.I.
Ulster County Chapter

John Bute
President
Woodbourne Prison
Sullivan County Chapter

Albert F. Kuhn
President
Greenhaven Prison
Dutchess County Chapter

Dear Sir:

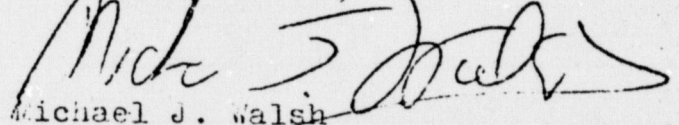
Prior to my retirement from the State Correction Department, I served as Executive Director of the New York State Correction Officers Association Inc., during that time we were engaged in Re-Allocations and Budget Hearings with the Legislature and Budget Department to upgrade the salaries and levels of the Correction Officer. These goals have been realized however not without the help of sponsors who provided funds for our research, legal expenses etc.

Mr. Astone generously helped subsidize our Orange County Chapter. Since our membership could not absorb all of the expenses required we called on the local Business Communities for financial aid.

Also in nineteen hundred sixty three, Mr. Astone hired several local high school dropouts, referred by our organization who in conjunction with our Juvenile Delinquency Program needed jobs to continue their education.

I learned of Mr. Astones difficulties through a mutual friend. I hope my letter can be of some help. Our Organization has since merged with the AFL-CIO Governmental Employees Union, however benefits now enjoyed by the State Correction Officers and their families, including a 25 year half pay pension were obtained through the efforts of ~~our~~ original organization and through the indirect help of sponsors such as Mr. Anthony Astone. He helped us when we needed help, I now hope we can be of some assistance to him.

Sincerely Yours,


Michael J. Walsh
Executive Director
N.Y.S.C.O.A. Inc

HJW:hn

AMERICAN



LEGION

A-30

For God and Country

ORANGE BLOSSOM POST NO. 1167, Inc.

P. O. BOX 97

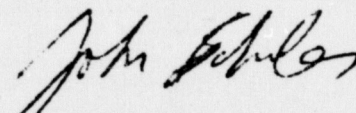
CHESTER, NEW YORK 10918

Dear Sir:

As regards to Mr. Tony Astone. While I was Commander of the American Legion, Mr. Astone a World War II disabled veteran was very active in our Scout Program. Since we sponsored a boy Scout group he assisted us both financially and gave of his time and efforts. He received an Honorable Discharge from the Service, and his record is outstanding. He also holds several Service ribbons.

Any consideration extended to Mr. Astone will be appreciated by the American Legion.

Yours for The American Legion,


Commander

CHESTER UNION FREE SCHOOL DISTRICT NO. 1

CHESTER, NEW YORK

DR. PETER PIRNIE, Supervising Principal

BOARD OF EDUCATION

ARTHUR PARAS, President
ROBERT DOLFINI
CYRIL LATIMER
ANTHONY MARCIANO
RICHARD WAPSHARE

HELEN HULSE, Treasurer
JEANETTE POSTEL, Clerk

October 10, 1974

Honorable Edmunds Palmieri
United States District Court
Southern District

Dear Judge Palmieri:

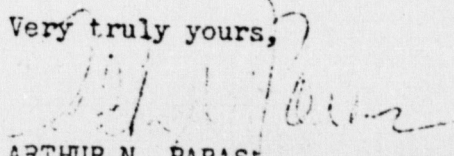
I have had the privilege of being associated with Mr. Anthony Astone socially for the past fifteen years. I can personally attest to his sincerity, kindness, and honesty. I have found him to be a good family man, providing for his widowed mother and also finding time to help his two nephews along with their education and careers.

On many occasions I personally have called upon him to assist our School District gratis when funds were not available for our summer program. Mr. Astone allowed us to use his equipment, and on many occasions drove the trucks himself. I am not familiar with the facts in his case, but I can assure you your Honor that while Mr. Astone was a resident in Orange County he had distinguished himself as a good decent person, who when called upon by friends or various service or charitable organizations, did not hesitate to give of himself.

During my public career, I have served in many capacities, both elective and appointive, ALL of these positions have been non paying, so I can appreciate what type of person Mr. Astone is. In 1972 while serving as Master of Kerem Lodge F&AM #1074 I called upon Mr. Astone to serve as my CO-Chairman for the Masonic Brotherhood Fund for the Hospital for the Elderly at Utica N.Y.

I will gladly testify on his behalf, provide any data that I can, or travel anywhere I might have to in order to help this person. Many of us who have known him assure you that he has never been in any trouble before. If anyone is entitled to any consideration, Mr. Astone is.

Very truly yours,


ARTHUR N. PARAS
PAST PRESIDENT
CHESTER UNION FREE SCHOOL DISTRICT # 1

ANP/s



NEWBURGH CHAPTER OF
UNICO NATIONAL

P. O. BOX 2104
NEWBURGH, N. Y. 12550

A-32

10-3-74

To whom it may concern -

This letter is written as to the
knowledge of 1 gentleman named

Anthony Astone. It is pertinent to
our Service Club I know that Mr.
Astone followed our motto

"Service Above Self" to the fullest
extent. He was never called upon
to do a job that wasn't always done
above & beyond. It was always
a pleasure to be in his company.

Truly yours
Rud. Fextini Pres.

Newburgh Truck Trailer Sales, Inc. ^{A-33}

Trailer Repairs of All Types and Makes — Refrigerated and Custom Bodies



601-603 ROUTE 9W

NEWBURGH, N. Y. 12550

TELEPHONE (914) 562-5720

October 22, 1974

TO WHOM IT MAY CONCERN:

I have known Anthony Astone for the past 10 years and find Mr. Astone to be a gentleman.

In addition we have, in the past, enjoyed some business with Newburgh Moving and Storage and found him to be a very reputable person.

On a personal basis, I would also like to bring to your attention the fact that Mr. Astone has been a very generous person. As a former President of a service organization, I personally witnessed a charitable contribution by Mr. Astone of \$500.00 to Mental Health. I certainly hope that Mr. Astone will receive the same kind of charity that he has bestowed upon others.

Robert J. DeSantis
Past President Newburgh
Chapter, UNICO NATIONAL

A large, stylized handwritten signature in dark ink, which appears to read "Robert J. DeSantis". The signature is fluid and cursive, with long, sweeping strokes.

October 2, 1974

A-34

To Whom It May Concern:

Having known Mr. Anthony Astone for the last 8 years, and being a member of our organization UNICO, I have found him to be a hard worker for this organization in helping for mental health and scholarships for students. This is the character of the man as I know him.

Sincerely,
Mr. Joseph S. Gentile

21 October 1974
Newburgh, New York

HONORABLE JUDGE PALMIERI,

In relation to one, Anthony Astone, [redacted] E. Oncher,
14 Hawthorne Avenue Newburgh, New York 12, [redacted] retired Deputy
Chief of Police, (January 4, 1974) Newburgh Police Department
Newburgh, New York, give my personal recommendation in know-
ledge of my acquaintance with Mr. Astone, as follows:-

I have known Mr. Astone for more than ten
years and consider him a person of high
character and an asset of our community.

He has been most helpful to me as a law
enforcement Officer in introducing new
enforcement programs in the City of New-
burgh Police Department, namely its
Canine Division.

Whenever Mr. Astone, was called upon by
myself in relation to information needed,
he was always very cooperative in assisting
myself.

Any consideration that may be given my recommendation to
Mr. Astone, would sincerely be a benefit to the citizens of
this community.

Respectfully yours,

JOHN E. ONCHER
retired Deputy Chief
of Police

JEO/lfo

October 16, 1974

Hon. Edmond Palmieri
U. S. District Court
Southern District, N. Y.

Re: Anthony Astone

Dear Sir:

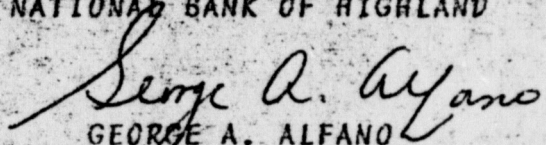
I would like to introduce to you the above captioned individual, Mr. Anthony Astone, whom I have done business with for a number of years and know him personally as well. During the course of our business relationship pertaining to this bank, I must emphatically state that he has always taken care of his obligations in a most orderly fashion and his credit with this bank is excellent.

As an individual, Mr. Astone is a fine gentleman who has helped many people in the area and has made many friends in the process. I personally have high regard for the gentleman and recommend him highly.

If there is any information that you desire relative to business and/or personal, I would be only too glad to oblige; for, to repeat myself, as an individual or a businessman, he is rated highly.

Very truly yours,

THE FIRST NATIONAL BANK OF HIGHLAND


GEORGE A. ALFANO
Exec. Vice President

GAA/mr

DiMento & Sullivan
ATTORNEYS AT LAW

FRANCIS J. DiMENTO
JAMES J. SULLIVAN, JR.
MATTHEW T. CONNOLLY
THOMAS C. CAMERON
EUGENE G. COOMES, JR.

100 STATE STREET A-37
BOSTON, MASSACHUSETTS 02109

AREA CODE 617
523-5253

November 19, 1974

Richard Mezan, Esq.
350 5th Avenue
New York, N.Y. 10001

Re: Anthony Astone

Dear Mr. Mezan,

I am writing relative to my court appearance of this date with Anthony Astone. In order to understand what happened, I will set out the background which necessitated this appearance.

Mr. Astone was indicted in the fall of 1953, Suffolk indictment number 4437 of 1953, for a felony, to wit: larceny of \$2,650. from James Annacone on May 4, 1949. On October 27, 1953 Mr. Astone entered a plea of not guilty which he subsequently changed to a plea of guilty on November 2, 1953. Whereupon he was sentenced to five years probation with an order that he make restitution.

Thereafter Mr. Astone made restitution of about \$1,000. On March 8, 1957 the probation department requested that Mr. Astone be surrendered and that a warrant issue for his arrest. The reason for this request, which was granted by the Court, was that Mr. Astone's whereabouts were unknown. The warrant which issued remained in Mr. Astone's folder in the probation department. Mr. Astone apparently was unaware of its existence until last week.

Today we appeared before Hon. Paul Tamburello, an Associate Justice of the Superior Court in the first session at Suffolk Superior

November 19, 1974

RE; Anthony Astone

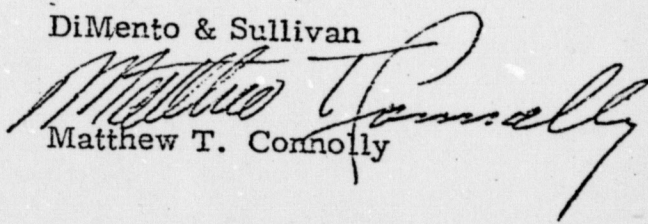
Court. John C. Mahony, the Assistant District Attorney, called the case and Joseph P. Donnelly, the Assistant Chief Probation Officer, represented the probation department. After Justice Tamburello heard from Mr. Donnelly and from me, he spoke with Mr. Astone. He then ordered that the probation of Mr. Astone be terminated and the case be dismissed.

I will order certified copies of this disposition and forward them to you after I receive them. Mr. Donnelly can be reached at the Suffolk Superior Probation Department, telephone number 1-617-742-9250.

I noted that at no time during the pendency of these proceedings was Mr. Astone represented by counsel nor at any time did he waive counsel. It seems that the 1953 conviction is void and should not be used as a basis for any part of the upcoming sentence. Because of the necessity to proceed expeditiously, a motion to void that conviction was deemed inadvisable since it would involve evidentiary hearings and further expense to Mr. Astone.

Thank you for referring this matter to us.

DiMento & Sullivan


Matthew T. Connolly

MTC/zac



COPY RECEIVED
PAUL
DEC 24 1974
U.S. ATTORNEY
ROSENBERG

GURRAN